

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

KENTUCKY SPEEDWAY, LLC	:	CASE NO:
	:	
Plaintiff,	:	1:06-mc-00203-***
v.	:	
	:	
NATIONAL ASSOCIATION	:	
FOR STOCK CAR AUTO	:	
RACING, INC., ET AL.,	:	
	:	
Defendants.	:	

**DECLARATION OF RICHARD G. PLACEY REGARDING
AMOUNTS OF ATTORNEYS FEES INCURRED BY NON PARTY
DOVER MOTORSPORTS, INC. IN RESPONDING TO CERTAIN
OF KENTUCKY'S SPEEDWAY'S SUBPOENAS AND FILINGS**

I, Richard G. Placey make the following declaration pursuant to 28 U.S.C. §1746:

1. I am counsel of record for non-party Dover Motorsports, Inc. ("Dover") in the above action, and make this declaration regarding procedural matters with which I am familiar as counsel. I have no direct knowledge of the underlying facts and circumstances which gave rise to the filing of Plaintiffs' Complaint or the issuance of the subpoenas that gave rise to this matter; accordingly, this declaration is limited to procedural matters with which I am familiar.

2. Dover has sought an award of its historical fees that it incurred in responding to certain of Kentucky Speedway, Inc.'s subpoenas and filings; accordingly I make this declaration to set out for the Court the attorneys fees that Dover has incurred in responding to those items. The hours spent and rates set forth herein are based upon the time records and bills of my firm, which are accurate to the best of my knowledge, information and belief.

3. Dover seeks an award pursuant to F.R.Civ.P. 45(c), F.R.Civ.P. 26(g) and F.R.Civ.P. 11 for the historical fees that it incurred in (a) responding to the subpoena purportedly

issued in Ohio when there is and was no case pending there, (b) opposing the “nationwide service of subpoenas motion” in Kentucky, (c) responding to the First Delaware subpoena prior to its withdrawal on July 7, 2006, (d) responding to the Second Delaware subpoena between its issuance on July 7, 2006 and when it was superceded (by the 22 Item list that is Exhibit 3 to the Motion to Compel), (e) briefing Kentucky’s Motion to Transfer, and (f) filing and briefing the Motion to Strike. I have calculated the fees associated with each of those items using my firm’s records, and each is set forth separately below (the items set forth below do not include fees associated in responding to the list of 22 items [Exhibit 3 to the Motion to Compel] upon which Kentucky ultimately based its request for production and Motion to Compel).

4. Ohio Subpoena – 5.0 hours of partner time at \$325/hour was incurred in responding to this subpoena (including seeking its withdrawal through negotiations with Kentucky’s counsel and ultimately serving objections), for a total cost of \$1,625.

5. Nationwide Service of Subpoenas Motion -- 12.6 hours of partner time at \$325/hour was incurred in responding to this motion (including discussions with Plaintiff’s counsel and ultimately sending to the Magistrate Judge in Kentucky the letter argument at p 54-59 of the Appendix), for a total cost of \$4,095.

6. First Delaware Subpoena (through July 7, 2006) – 16.2 hours of partner time at \$325/hour was incurred in responding to this subpoena through its withdrawal on July 7, 2006 (including negotiations with Plaintiff’s counsel and the service of objections and the Rule 11 warning motion attached as Exhibit 2 to the Motion to Compel) for a total cost of \$5,265.

7. Second Delaware Subpoena – 15.4 hours of partner time at \$325/hour was incurred in responding to this subpoena (including negotiations with Plaintiff’s counsel such as

the offers documented in Exhibit 6 to the Motion to Compel and serving objections), for a total cost of \$5,005.

8. Briefing the Motion to Transfer – 13.1 hours of partner time at \$350/hour and 17.4 hours of associate time at \$240/hour was incurred in researching/briefing the motion to transfer (the brief is at D.I. 9), for a total of \$8,761.

9. Motion to Strike – 7.9 hours of partner time at \$350/hour and 25.7 hours of associate time at \$240/hour was incurred in researching and filing the Motion to Strike (D.I. 12) and the portion of the associated brief (D.I. 13)¹ addressing the motion to strike, for a total of \$8,933.

I verify under penalty of perjury that the foregoing is true and correct; I understand that this verification is made subject to the penalties of 28 U.S.C. §1746 relating to unsworn falsification to authorities.

Executed on: January 30, 2007

s/RGPlacey
Richard G. Placey

¹ As noted, the hours and rates are based on billing records. In a few instances such records record attorney hours as a single entry for items that encompassed both matters which are the subject of the fee request and matters which are outside the scope of the request (examples of this would be briefing on the motion to strike which was part of a single brief addressing both the motion to strike and the substance of the motion to compel [D.I. 13], or a communication with Kentucky's counsel that encompassed items for which fees are not being sought as well as the matters for which fees were sought). In such instances, an estimate was made of the time in that entry that involves matters for which fees are at issue, and only that time is included herein.

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NATIONAL ASSOCIATION	:	
FOR STOCK CAR AUTO	:	
RACING, INC., ET AL.,	:	
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January, 2007, I caused a true and correct copy of the foregoing to be served via electronic notice to the parties as provided by the electronic filing system and via United States First Class Mail, postage prepaid, upon the following at the addresses listed below:

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/s/ RG Placey
Richard G. Placey